



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,680	10/22/2001	Mark H. Lucovsky	3070	9548

7590

04/06/2006

Law Offices of Albert S. Michalik, PLLC
Suite 193
704 - 228th Avenue NE
Sammamish, WA 98074

EXAMINER

NGUYEN, MAIKHANH

ART UNIT

PAPER NUMBER

2176

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,680

Applicant(s)

LUCOVSKY ET AL.

Examiner

Maikhanh Nguyen

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/14/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: RCE filed 01/17/2006 to the original application filed 10/22/2004; IDS filed 09/14/2005.
2. Claims 1-20 are pending in this application. Claims 1 and 19 have been amended. Claims 1 and 19 are independent claims.

Request Continuation for Examination

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/17/2006 has been entered.

Specification

4. The cross reference related to the application cited in the specification must be updated (i.e., update the relevant status, with PTO serial numbers or patent numbers where appropriate, on page 1). Correction is required.

5. It is noted that applicant has other related applications (e.g., 10/021264 filed 10/22/2001; 10/021563 filed 10/22/2001; and 10/021316 filed 10/22/2001; etc.) It is requested that any related application be referred to in the first sentence of the specification. Applicant is also requested to supply the serial numbers of any other related applications currently pending before the U.S Patent & Trademark Office.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 C.F.R. ' 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. ' 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of copending application No. 10/187057, and claims 1-27 of copending application No. 10/208,975. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application, claim 1 of co-pending application 10/187057, and claim 1 of co-pending application 10/208,975 are all claiming: providing a schema, the schema having service-related fields arranged into a content document with defined structures for the fields; receiving a data access request, the request including associated identity information; and in response to the data access request, manipulating at least one set of data in a logical document that includes data therein according to the associated identity information, each set of data in the logical document structured to correspond to a field in the content document. The main difference between the instant application, copending application No. 10/187057, and copending application No. 10/208,975 is the instant application claims **a service schema**, copending application No. 10/187057 claims **a categories schema**, and copending application No. 10/208,975 claims **a device schema**.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or " (Emphasis added.)

9. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by **Saulpaugh et al.** (U.S. 6,789,126 – filed 10/2000).

As to claim 19:

Saulpaugh teaches in a computer network (*e.g., the distributed computing environment; see fig. 8 and the discussion beginning at col. 15, line 13*), a method comprising,

- (i) receiving a data access request (*e.g., allows the client 110 to run the service 112, by sending (and receiving) XML messages to (and from) the service 112*), the request including associated identity information (*e.g., the specified service's XML schema*) [see the discussion beginning at col. 15, line 13];
- (ii) accessing a data store to obtain data based on the associated identity information (*e.g., Clients and services may find each other and broker content using a transient storage space*) [see the discussion beginning at col. 16, line 19];

- (iii) constructing a document including at least part of the data and including a defined identity-based services schema (*e.g., A service's capabilities may be expressed in terms of the messages the service accepts. A service's message set may be defined using an XML schema. An XML message schema defines each message format using XML typed tags. The tag usage rules may also be defined in the schema. The message schema may be a component of an XML advertisement along with the service's message endpoint used to receive messages*) [see the discussion beginning at col.15, line 13]; and
- (iii) returning the document in response to the request (*e.g., Some results of running a service may be returned to the client in an XML message...Results (which are just another content type) from service operations may be returned directly to the client in a response message/ XML document is required to be returned in the response message*)[see the discussions beginning at col.15, line 13 and col.33, line 56).

As to claim 20:

Saulpaugh teaches the schema includes at least one defined field for extending the schema (*e.g., extended schema; col.39, lines 32-57*).

As to claim 1:

Saulpaugh teaches in a computer network (*Fig.2*), a method comprising,

- (i) providing an identify-based (*e.g., In order for the client to access the documents or services advertised in the space, the client first may authenticate itself to the authentication service at the URI provided in the return message ... may allow the*

client partial or full access to the space. When the client receives the authentication credential, the client may attempt to connect to the space to access the documents or service advertisement in the space; col.36, line 61-col.7, line 2) services schema (e.g., the service's XML schema; col.15, lines 19-2 & col.29, lines 4-25), the services schema having services-related fields arranged into a content document with defined structures for the fields (e.g., XML document which has fields are defined with tags and therefore has a defined structure; col.26, lines 45-52/ XML documents, may include a series of hierarchically arranged elements 502. Each element may also include its data or additional elements ...meta-data ... describing the data within the element; col.35, lines 34-41);

- (ii) *receiving a data access request directed to service information (e.g., the client receives results from the service; col.32, lines 35-67 & col.33, lines 1-8), the request including associated identity information (e.g., a mechanism for clients to negotiate service access rights ...The result of the negotiation may an authorization such as an authentication credential the conveys to the client the right to use the requested subset of the service's capabilities; col.32, lines 40-67); and*
- (iii) *in response to the data access request (col.32, lines 25-67 & col.33, lines 15-67), manipulating (e.g., a client can manipulate the XML representation of an object; col.11, lines 45-57 & col.13, lines 21-46) at least one set of data in a logical services document (e.g., a XML schema at the service message gate within a*

device, which provides services to the clients; col.7, lines 24-67) that includes data therein according to the associated identity information (e.g., the client is only able to request a service that is permitted and the clients identity is verified by the authentication service; col.18, lines 29-56), each set of data in the logical services document structured to correspond to a field in the content document (col.33, lines 15-45 and col.35, lines 19-41).

As to claim 2:

Saulpaugh teaches manipulating at least one set of data comprises reading data from at least one field in the logical services document (*e.g., A client of a space may itself be a service provider ...modify an existing advertisement; col.34, lines 54-56 and A space service may also provide facilities to read advertisements, write 'publish' advertisements, and take 'remove' advertisements; col.36, lines 11-20).*

As to claim 3:

Saulpaugh teaches manipulating at least one set of data comprises writing data to at least one field in the logical services document (*e.g., A client of a space may itself be a service provider ...modify an existing advertisement; col.34, lines 54-56 and A space service may also provide facilities to read advertisements, write 'publish' advertisements, and take 'remove' advertisements; col.36, lines 11-20).*

As to claim 4:

Saulpaugh teaches the service schema corresponds to a first service to allow an application to find a second service (*e.g., clients and services may find each ... using a transient storage space; col.16, lines 19-25).*

As to claim 5:

Saulpaugh teaches the service schema corresponds to an application settings service (*items 300-310; Fig.2*).

As to claim 6:

Saulpaugh teaches the service schema corresponds to a calendar service (*e.g., A lease is granted of guaranteed access over a time; col.3, lines 15-22/ Each advertisement may contain a time by which the service promises to renew the advertisement; col.46, lines 29-42*).

As to claim 7:

Saulpaugh teaches the service schema corresponds to a categories service (*e.g., a mechanism to send and receive XML messages between clients and services ... XML messages may be 'typed'; col.17, lines 57-59*).

As to claim 8:

Saulpaugh teaches the service schema corresponds to a contacts service (*e.g., XML messaging mechanism; col.34, lines 34-42*).

As to claim 9:

Saulpaugh teaches the service schema corresponds to a devices service (*e.g., Device/Service; Fig.6*).

As to claim 10:

Saulpaugh teaches the service schema corresponds to a documents service (*e.g., XML schema advertised for the service; col.17, lines 27-45*).

As to claim 11:

Saulpaugh teaches the service schema corresponds to a favorites service (*e.g., The distributed computing environment may provide a mechanism for matching a component ...a client 'which may be a service' may desired a service that meets a set of interface requirements; col.34, lines 9-13*).

As to claim 12:

Saulpaugh teaches the service schema corresponds to an inbox service (*e.g., clients may find the advertisement to access service using the XML messaging mechanism; col.34, lines 39-42*).

As to claim 13:

Saulpaugh teaches the service schema corresponds to a lists service (*e.g., a service or content listed by the space; col.34, lines 48-60*).

As to claim 14:

Saulpaugh teaches the service schema corresponds to a location service (*e.g., locating services; col.7, lines 11-20*).

As to claim 15:

Saulpaugh teaches the service schema corresponds to an alerts service (*e.g., event notification messages; col.18, lines 51-56*).

As to claim 16:

Saulpaugh teaches the service schema corresponds to a profile service (*e.g., see "Client Profile" in Fig.5*).

As to claim 17:

Saulpaugh teaches the service schema corresponds to a presence service (*e.g., Many spaces may exist, each contain XML advertisements that describe services or content ...a space may be a repository of XML advertisements of services and/or XML data, which may be raw data or advertisements for data, such as results; col.34, lines 42-47*).

As to claim 18:

Saulpaugh teaches the service schema corresponds to a wallet service (*e.g., the user may insert the smart card into the client device to begin the session; col.75, lines 43-50*).

Response to Arguments

10. Applicant's arguments filed 01/17/2006 have been fully considered but they are not persuasive.

a. Applicant argues that *nowhere in Saulpaugh discloses a logical services document* [Remarks, page 13, 1st full paragraph].

In response, Saulpaugh's teaching "*a XML schema at the service message gate within a device, which provides services to the clients*" (col.7, lines 24-67) meets "a logical services document" as claimed by Applicant.

b. Applicant argues that *Saulpaugh does not teach a schema for services-related data* [Remarks, page 13, last paragraph].

In response, *Saulpaugh teaches a schema for services-related data (e.g., XML schema advertised for the service; col.17, lines 27-45).*

- c. Applicant argues that *Saulpaugh does not teach a calendar service* [Remarks, page 14, last paragraph].

In response, Saulpaugh does teach a calendar service (*e.g., A lease is granted of guaranteed access over a time; col.3, lines 15-22/ Each advertisement may contain a time by which the service promises to renew the advertisement; col.46, lines 29-42).*

- d. Applicant argues that *Saulpaugh does not teach an inbox services* [Remarks, page 15].

In response, Saulpaugh's teaching "A message gate may provide a secure message endpoint that sends and receives type-safe message" (col.7, lines 24-37) meets "an inbox services" as claimed.

- e. Applicant argues that *Nowhere in Saulpaugh is disclosed constructing a document including data and a defined services schema* [Remarks, page 17, 1st full paragraph].

In response, Saulpaugh teaches constructing a document including data (*e.g.*, *XML messages are generated; col.11, line 60-col.12, line 4 & col.16, lines 42-58*) and a defined services schema (*e.g.*, *Services may place a content or service advertisement in a space. The advertisement may describe the content type or the capabilities of the service. Clients may subsequently browse spaces looking for advertisements that match a desired set of capabilities. When a client finds a matching advertisement, a communication channel may be established which may enable bi-directional message passing to the service backing the advertisement; col.16, lines 25-33*).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schwarzhoff et al. U.S. Patent No. 6,591,260, Issued: Jul. 8, 2003

Contact information

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached at (571) 272-4136.

Art Unit: 2176

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


HEATHER R. HERNDON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100